SBCivil Writ Petition No.58/2004

Jawanaram & Anr.
V.
Asstt.Krishi Engineer, Jalgrahan Vikas Avam Bhoo Sanrakshan, Parbatsar & Ors.

Date of Order :: 2nd June, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. D.K.Parihar, for the petitioners.
Mr. B.L.Tiwari, Dy.Govt.Advocate.
Mr. IR Choudhary]
Mr. VS Choudhary] for the respondents.

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This petition for writ is preferred to challenge correctness, validity and propriety of the order dated 15.12.2003 passed by learned Civil Judge (SD), Parbatsar accepting an application preferred on behalf of respondents Gulab Singh and Sanwata Ram under Order 1 Rule 10 read with Section 151 CPC. By the application under Order 1 Rule 10 CPC Shri Gulab Singh and Sanwata Ram sought an order to become party to the proceedings in a suit for permanent injunction preferred by the petitioner claiming the relief as under:-

> "(क)कि वादीगण के हक में एवं प्रतिवादीगण नं. 1 से 4 के खिलाफ इस आशय की स्थायी निषेधाज्ञा की घोषणा की डिक्री फरमाया जावे कि गांव गुणावती के (बी) सेक्टर में चल रहे जलग्रहण विकास एवं भु-सरक्षण के कार्य में किसी प्रकार की बाधा नहीं डाले।
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> (ख)कि गांव गुणावती(बी)सेक्टर के काश्तकारो के विकास हेतु भारत सरकार व राज्य सरकार द्वारा जो भी पैसा आये उसमें किसी

प्रकार की कटोती नहीं करे ओर ना ही किसी प्रकार की बाधा डाले। (ग)कि जलग्रहण क्षेत्र विकास हेतु जारी दिशा निर्देशकाओ के विपरीत प्रतिवादी गण नं. 1 से 4 तक जलग्रहण कमेटी दिनाक 10-2-2003 को सम्पति से चुन ली गयी है व अध्यक्ष व सचिव को भी नियुक्ती कर दी है। इनके अलावा किसी भी व्यक्ति के संबध में किसी प्रकार का कोई आदेश जारी नहीं करे। व जलग्रहण कमेटी गुणावती (बी)के खाता सं. 91 का संचालन जलग्रहण कमेटी के अध्यक्ष जवानाराम चौधरी वादी नं. 1 एवं सचिव गोपालसिंह वादी नं.2 के सहयोग से ही संचालित करे। तथा उन्हें खाता संचालन करने में किसी प्रकार की कोई रूकावट या बाधा पैदा नहीं करे।"

A reply to the writ petition was filed on behalf of the respondents stating therein that they have not sought any relief against the applicants, therefore, they cannot be permitted to join the suit proceedings. The trial court by order impugned held that the plaintiffs preferred the suit claiming themselves to be the President and Secretary of the Jalgrahan Vikas Avam Bhoo Sanrakshan Committee, Gunawati-B and the applicants are also claiming to be the President and Secretary of the same body, therefore, they are party interested specially in the circumstances that a decree is sought to restrain any person in creating hindrances and hurdles in operating the account of the Jalgrahan Vikas Samiti, Gunawati-B and also that all the working of Jalgrahan Vikas Samiti, Gunawati-B be conducted with the help and aid of the plaintiffs.

While giving challenge to the order dated 15.12.2003 it is contended by counsel for the petitioners that the plaintiff petitioners have not sought any declaration to the effect that they are President and Secretary of the Jalgrahan Committee, Gunawati-B and also not sought any declaration that the applicant respondents are not President and Secretary of the Jalgrahan Committee. The suit is preferred seeking a permanent injunction wherein no relief is claimed against the applicant respondents, therefore, the trial court erroneously accepted the application preferred under Order 1 Rule 10 CPC.

Heard counsel for the parties.

I do not find any merit in the contention so raised by learned counsel for the petitioners. The plaintiffs sought a decree in the nature of permanent injunction for not interfering in operation of the accounts of Jalgrahan Committee, they being President and Secretary and also that no work of the Jalgrahan Committee be done without help of the plaintiffs. The relief claimed by the plaintiffs certainly effects the right and interest of the applicant respondents who are also claiming to be the President and Secretary of the Jalgrahan Committee, Gunawati-B. The trial court, therefore, rightly held that the applicants are the party interested and allowed them to join the suit proceedings. The trial court, therefore, has not

committed any error which may warrant interference of this Court under its extra ordinary jurisdiction.

The writ petition is accordingly dismissed.

(GOVIND MATHUR),J.

kkm/ps.